

## Fw: missed deadline and missing file

Von:

**Emma Rampton** (Emma.Rampton@admin.ox.ac.uk)

Gesendet: Freitag, 9. Oktober 2009 18:24:03

An: kgalalae@hotmail.com

Giovanni de Grandis (tutor.politicalphilo@conted.ox.ac.uk); Martin Williams

Cc: (senior.proctor@proctors.ox.ac.uk); Brian Gasser (brian.gasser@proctors.ox.ac.uk); Dr. Peter Gambles (peter.gambles@conted.ox.ac.uk)

Dear Mr Galalae

Thank you for your two e-mails of 8 October. I will take each of your main points in turn.

First, you have queried the fact that, as part of the process of dealing with your request for personal data, we asked Dr De Grandis to provide e-mails relating to you from his e-mail account, rather than obtaining this information ourselves. The University is only entitled to access an individual's University e-mail account in specified circumstances, those circumstances being where it is necessary for the regulation of University facilities; in connection with properly authorised investigations in relation to breaches or alleged breaches of provisions in the University's statutes and regulations; or to meet legal requirements. A request for personal data does not enable me to obtain such access. Instead, therefore, our procedure is to contact the individual or individuals who are likely to hold the personal data explaining, when necessary, the University's obligations under the Act and to ask that the requested data be passed onto my office to process.

Second, you suggest that the delay in responding to your request for personal data may have been intentional. As explained in my letter of 29 September and in my e-mails of 30 September and 7 October, there was certainly no intention to delay purposefully the disclosure of your personal data. The delay occurred due to the unavailability of certain key individuals over the period when your request was being processed, and we took steps to ensure that the material reached you as quickly as possible, by couriering it to you at our expense.

Your final point concerns the redaction, in white, of a small number of documents. As you know, under the Data Protection Act 1998, individuals are entitled to seek access to their personal data, and the University is obliged to deal with such requests in accordance with the Act. The Act allows for the redaction of data in particular circumstances, such as where the data comprises the personal data of other individuals, or where it does not relate to the individual making the request. The Act does not prescribe the method by which such data should be redacted: it simply states that personal data should be communicated in an 'intelligible form'. I believe that we have complied with this provision.

If you are dissatisfied with this response, it is of course open to you to take this matter to the Information Commissioner, with whom we would be happy to co-operate in full.

Finally, on a related note, in my e-mail of 7 October, I explained that I was still waiting to hear from the author of a small number of e-mails. I have now received a response in relation to those items and will send them on to you.

Yours sincerely

Emma

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Oxford OX1 2JD  
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kevin galalae <kgalalae@hotmail.com>  
08/10/09 04:49

To Emma Rampton <emma.rampton@admin.ox.ac.uk>  
cc Giovanni de Grandis <tutor.politicalphilo@conted.ox.ac.uk>, Martin  
Williams <senior.proctor@proctors.ox.ac.uk>, Brian Gasser  
<brian.gasser@proctors.ox.ac.uk>, "Dr. Peter Gambles"  
<peter.gambles@conted.ox.ac.uk>  
Subject RE: missed deadline and missing file

Dear Mrs. Rampton,

The decision to accord Dr. De Grandis discretionary and unsupervised authority to hand over potentially self-incriminating evidence seems misguided and may even be duplicitous. It allows him to be selective as to what he discloses, which does not bode well for the pursuit of justice or for transparency. That task properly falls onto a third party and not on the accused. You may want to remember that access to the evidence was provided to me in order that I may ascertain one of the following suspicions:

1. Has Dr. De Grandis set students up or colluded with students and/or staff to expel me from the course?
2. Has Dr. De Grandis impersonated a student or asked a student to post Dr. De Grandis' own arguments in answer to a debate with me?
3. Has Dr. De Grandis acted on prejudice when deciding to expel me from the course?

To answer these questions, all evidence/correspondence that directly or indirectly refers to me is subject to disclosure. Yet by allowing Dr. De Grandis to decide what is or is not to be disclosed defies reason and fairness for it gives him the right to control what he releases.

I wish therefore to make my dissatisfaction known with the way the Data Protection office has chosen to access the evidence I am entitled to. I did not request the evidence from Dr. De Grandis – whose judgment is already under question and under review – but from the Proctors and from the members of the Disciplinary Panel. In abdicating their responsibilities, these two bodies have therefore failed in their duties.

As for failing to meet the deadline prescribed by the Data Protection Act, and therefore failing to comply with the law, the responsibility falls squarely onto your shoulders, Mrs. Rampton. The excuse that your staff was on vacation will not hold water if the Data Protection Commissioner were to be informed by me that Oxford University is potentially suppressing evidence and that its Data Protection Officer may be purposefully delaying the release of data vital to the pursuit of justice.

I wish to remind you, Dr. De Grandis, the Proctors and the Disciplinary Panel of what Part V,

schedules 40 and 47, of the Data Protection Act have to say:

#### ***47 Failure to comply with notice***

*(1) A person who fails to comply with an enforcement notice, an information notice or a special information notice is guilty of an offence.*

*(2) A person who, in purported compliance with an information notice or a special information notice—*

*(a) makes a statement which he knows to be false in a material respect, or*

*(b) recklessly makes a statement which is false in a material respect,*  
*is guilty of an offence.*

*(3) It is a defence for a person charged with an offence under subsection (1) to prove that he exercised all due diligence to comply with the notice in question.*

#### ***40 Enforcement notices***

*(1) If the Commissioner is satisfied that a data controller has contravened or is contravening any of the data protection principles, the Commissioner may serve him with a notice (in this Act referred to as “an enforcement notice”) requiring him, for complying with the principle or principles in question, to do either or both of the following—*

*(a) to take within such time as may be specified in the notice, or to refrain from taking after such time as may be so specified, such steps as are so specified, or*

*(b) to refrain from processing any personal data, or any personal data of a description specified in the notice, or to refrain from processing them for a purpose so specified or in a manner so specified, after such time as may be so specified.*

*(2) In deciding whether to serve an enforcement notice, the Commissioner shall consider whether the contravention has caused or is likely to cause any person damage or distress.*

*(3) An enforcement notice in respect of a contravention of the fourth data protection principle which requires the data controller to rectify, block, erase or destroy any inaccurate data may also require the data controller to rectify, block, erase or destroy any other data held by him and containing an expression of opinion which appears to the Commissioner to be based on the inaccurate data.*

*(4) An enforcement notice in respect of a contravention of the fourth data protection principle, in the case of data which accurately record information received or obtained by the data controller from the data subject or a third party, may require the data controller either—*

*(a) to rectify, block, erase or destroy any inaccurate data and any other data held by him and containing an expression of opinion as mentioned in subsection (3), or*

*(b) to take such steps as are specified in the notice for securing compliance with the requirements specified in paragraph 7 of Part II of Schedule 1 and, if the Commissioner thinks fit, for supplementing the data with such statement of the true facts relating to the matters dealt with by the data as the Commissioner may approve.*

*(5) Where—*

*(a) an enforcement notice requires the data controller to rectify, block, erase or destroy any personal data, or*

*(b) the Commissioner is satisfied that personal data which have been rectified, blocked, erased or destroyed had been processed in contravention of any of the data protection principles, an enforcement notice may, if reasonably practicable, require the data controller to notify third parties to whom the data have been disclosed of the rectification, blocking, erasure or*

*destruction; and in determining whether it is reasonably practicable to require such notification regard shall be had, in particular, to the number of persons who would have to be notified.*

*(6) An enforcement notice must contain—*

*(a) a statement of the data protection principle or principles which the Commissioner is satisfied have been or are being contravened and his reasons for reaching that conclusion, and*

*(b) particulars of the rights of appeal conferred by section 48.*

*(7) Subject to subsection (8), an enforcement notice must not require any of the provisions of the notice to be complied with before the end of the period within which an appeal can be brought against the notice and, if such an appeal is brought, the notice need not be complied with pending the determination or withdrawal of the appeal.*

*(8) If by reason of special circumstances the Commissioner considers that an enforcement notice should be complied with as a matter of urgency he may include in the notice a statement to that effect and a statement of his reasons for reaching that conclusion; and in that event subsection (7) shall not apply but the notice must not require the provisions of the notice to be complied with before the end of the period of seven days beginning with the day on which the notice is served.*

*(9) Notification regulations (as defined by section 16(2)) may make provision as to the effect of the service of an enforcement notice on any entry in the register maintained under section 19 which relates to the person on whom the notice is served.*

*(10) This section has effect subject to section 46(1).*

Furthermore, the delay is unacceptable not only because it breaches the law, but also because it breaks a promise that you have made to me, namely that you will “try to respond as quickly as possible” (see email sent on the 17<sup>th</sup> of August) and “in any event, no later than the 40 days allowed by the Act i.e. by 26 September” (see email sent on the 11<sup>th</sup> of September). These words ring rather hollow if not disingenuous in retrospect, but I took them at face value when you wrote them to me.

In light of the fact that Oxford University has tried its utmost to deny me justice for over four months now and that it has treated me without mercy when deciding to expel me from the course and keep me out of the course, you should consider my decision not to have already lodged a formal complaint with the Data Protection Commissioner an act of great generosity on my part. I would not count on my generosity 48 hours from now.

One last observation before I conclude my email. The materials you have sent me have been redacted in white, which makes it impossible for me to tell if and where there has been text redacted. I would therefore appreciate it if you would resend me the materials but this time redacted in black.

Sincerely,

Kevin Galalae

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To: kgalalae@hotmail.com  
CC: peter.gambles@conted.ox.ac.uk  
Subject: RE: missed deadline and missing file  
From: Emma.Rampton@admin.ox.ac.uk  
Date: Wed, 7 Oct 2009 15:16:31 +0100

Dear Mr Galalae

Thank you for your e-mail. As explained in my letter of 29 September and e-mail of 30 September, it took slightly longer than anticipated to respond to your data protection subject access request due to the unavailability of some staff over the long vacation. We had hoped to send a response out by 26 September (40 days after your request was received) and in the event we sent the response 4 days later, on 30 September. As you know, to ensure the material reached you as quickly as possible and contrary to our usual practice, it was couriered to you at our expense.

I turn now to the second point in your email, that 'the envelope contains only one of the files I have requested. The email communications of Dr. De Grandis with other students in relation to me are still missing.' As explained in my letter of 29 September, you have been sent all the personal data which, so far as I am aware, the University holds in relation to your requests and which I believe is disclosable under the provisions of the Data Protection Act. When your request was received, we contacted Dr de Grandis and asked him to pass on to the Data Protection team all e-mails relating to you that had been sent from or received by the e-mail account tutor.politicalphililo@conted.ox.ac.uk. I understand this is what Dr de Grandis did. There were a small number of e-mails sent to Dr de Grandis by other students on the course but it is my view that these e-mails give rise to a duty of confidentiality to those students and that they are therefore not disclosable under the Data Protection Act 1998. These e-mails were therefore redacted from the material which was sent to you.

I am still waiting to hear from the author of a small number of e-mails and hope to be in a position to respond to you in relation to those documents by the end of this week.

Yours sincerely

Emma

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Emma Rampton  
Head of the Council Secretariat  
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kevin galalae <kgalalae@hotmail.com>  
06/10/09 02:51

To <emma.rampton@admin.ox.ac.uk>  
cc "Dr. Peter Gambles" <peter.gambles@conted.ox.ac.uk>  
Subject RE: missed deadline and missing file

Dear Mrs. Rampson,

The couriered envelope arrived in Canada today, 10 days later than the 40 day deadline allowed by the Data Protection Act. More than that, the envelope contains only one of the files I have requested. The email communications of Dr. De Grandis with other students in relation to me are still missing.

I cannot help but note the irony of this situation, for while Oxford University allows itself the right to expel me from the course on spurious grounds and for breach of netiquette, which is not a legal offence and is based on a fuzzy and subjective notion, Oxford seems to except itself from the responsibility to comply with the law.

I would like to know when I can expect to receive the said file and why is Oxford in contravention of the Data Protection Act?

I eagerly await your response.

Sincerely,  
Kevin Galalae

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To: kgalalae@hotmail.com

Subject: Re:

From: Emma.Rampton@admin.ox.ac.uk

Date: Wed, 30 Sep 2009 14:49:29 +0100

Dear Mr Galalae

Thank you for your email. As the University's data protection officer, my team has been handling your request. Unfortunately there has been some delay in collating the papers due to the unavailability of some staff over the long vacation. However, I can confirm that the documents will be couriered to you in Canada today.

Yours sincerely

Emma

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kevin galalae <kgalalae@hotmail.com> 30/09/09 14:02

To <emma.rampton@admin.ox.ac.uk>

cc

Subject

Dear Mrs. Rampton,

I am trying to obtain the name and phone number of the data protection officer of the department of continuing education. Can you help me find this person?

I would appreciate your help. This is a rather urgent matter since the department has missed the September 26 deadline for the release of evidence I have requested more than 50 days ago and that I was promised by the department's Panel and by the Proctor's office.

Sincerely,  
Kevin Galalae